

code, no judge should be required or even requested to serve on a formalized committee to review legislation according to which he or she may have to render judicial decisions. Automatically, the objectivity and the disinterestedness of the judge is removed. The county attorney would be required to bring actions under the code. The public defender will have to defend actions under the code and when you have an adversary system or an accusatory system of justice as exists in this county and you put the defender and the prosecutor on the same committee, it is impossible for them to deal in an abstract theoretic fashion with an actual body of law. It would be impossible, like in line 25 to have all these various people agree that a point that they disagree on is a mere ambiguity. Supreme Court decisions have turned on whether or not language is ambiguous, whether two things or more may be inconsistent, whether there are errors, and then the general catch all of other defects would open the entire code up for these people to examine and bring in recommended amendments. Based on the fact that the criminal code that you are considering now is something you don't comprehend and the only reason you are going for it is because they keep telling you that a committee that has changed membership over a six year period put it together, lets me know that whatever this group offered as amendments would automatically carry profound weight and the Legislature would probably go along with all of those amendments. Here is what is going to happen when you have this many legal personalities. Personally, I don't believe that any judge who properly comprehends his or her duties would serve on this committee. Let's say that some would. Then they have to arrive at a consensus like the members of the ad hoc committee have to do. Senator Hasebroock and I have studied our math and we know that one plus one is two. But there are others who are not up on it so much and they say, I think one plus one is eleven. Somebody else says, I think one plus one is six. So then we are going to have a consensus. Since we have one at the bottom end and eleven at the top end, we'll agree on the middle through a consensus that one plus one is six. Well, just because we agree to that, that doesn't make it so. You have things which are far more abstract than the example I gave you because we can demonstrate and prove that one plus one is two. We're dealing here with ideas, principles, and legal philosophies and points of view that these various people have. These attitudes have been shaped by their experiences and their educations and backgrounds in the legal profession. I think what Senator Bereuter is trying to do may be desirable but I don't think it can practically be achieved in this fashion. I think what the Legislature ought to do, if it's admitting that what it is doing is full of error is not establish a committee which is going to be like an eraser to erase all the penciling in that the Legislature is doing now. There ought to be or ought to have been a more careful, orderly and intelligent consideration of the criminal law. We know that is not going to happen now. I don't think the present error should be compounded even more by the creation of an error such as is embodied in the amendment of Senator Bereuter. I'm objecting to the make up of this committee and the duties assigned to it. I don't think that it is wise and, therefore, I would have to oppose his amendment.

PRESIDENT: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature. I do think this is a very wise amendment and I would urge the members of the Legislature to pass this. Senator Chambers